

HOUSE BILL No. 1197

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-41-8; IC 34-31-12; IC 35-31.5-2-35.7; IC 35-42-2-1.

Synopsis: Battery on a sports official. Provides that battery on a certified athletic official is a Class A misdemeanor. Grants limited liability protection against civil lawsuits claiming injury or damages to certified athletic officials who: (1) inspect the playing surface and areas immediately adjacent to the playing surface for hazards before the start of an athletic contest; (2) determine if weather conditions are appropriate for beginning or continuing an athletic contest; (3) inspect game equipment before and during an athletic contest; (4) inspect players' equipment for safety and compliance with applicable rules before beginning an athletic contest; and (5) control an athletic contest by properly enforcing applicable rules.

Effective: Upon passage.

Burton

January 7, 2016, read first time and referred to Committee on Judiciary.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1197

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-8-1, AS AMENDED BY THE TECHNICAL
2 CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS
3 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
4 PASSAGE]: Sec. 1. (a) As used in this chapter, "potentially disease
5 transmitting offense" means any of the following:

6 (1) Battery ~~(IC 35-42-2-1(b)(2))~~; **involving placing a bodily fluid**
7 **or waste on another person (IC 35-42-2-1).**

8 (2) An offense relating to a criminal sexual act (as defined in
9 IC 35-31.5-2-216), if sexual intercourse or other sexual conduct
10 (as defined in IC 35-31.5-2-221.5) occurred.

11 The term includes an attempt to commit an offense, if sexual
12 intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5)
13 occurred, and a delinquent act that would be a crime if committed by
14 an adult.

15 (b) Except as provided in this chapter, a person may not disclose or
16 be compelled to disclose medical or epidemiological information
17 involving a communicable disease or other disease that is a danger to



health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-45-21-1 or to protect the health or life of a named party.

(4) Release may be made of the medical information of a person in accordance with this chapter.

(c) Except as provided in this chapter, a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(d) In addition to subsection (c), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(e) Release shall be made of the medical records concerning an individual to:

(1) the individual;

(2) a person authorized in writing by the individual to receive the medical records; or

(3) a coroner under IC 36-2-14-21.

(f) An individual may voluntarily disclose information about the individual's communicable disease.

(g) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 2. IC 16-41-8-5, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2016 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.



(b) The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

(c) This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with battery (~~IC 35-42-2-1(b)(2)~~), **involving placing a bodily fluid or waste on**



1 **another person (IC 35-42-2-1)**, the court may limit testing under this
 2 subsection to a test only for human immunodeficiency virus (HIV).
 3 However, the court may order additional testing for human
 4 immunodeficiency virus (HIV) as may be medically appropriate. The
 5 court shall take actions to ensure the confidentiality of evidence
 6 introduced at the hearing.

7 (d) This subsection applies only to a defendant who has been
 8 charged with an offense involving the transmission of a bodily fluid. At
 9 the request of an alleged victim of the offense, the parent, guardian, or
 10 custodian of an alleged victim who is less than eighteen (18) years of
 11 age, or the parent, guardian, or custodian of an alleged victim who is
 12 an endangered adult (as defined in IC 12-10-3-2), the prosecuting
 13 attorney shall petition a court to order a defendant charged with the
 14 commission of an offense involving the transmission of a bodily fluid
 15 to submit to a screening test to determine whether the defendant is
 16 infected with a dangerous disease. In the petition, the prosecuting
 17 attorney must set forth information demonstrating that:

18 (1) the defendant has committed an offense; and

19 (2) a bodily fluid was transmitted from the defendant to the victim
 20 in connection with the commission of the offense.

21 The court shall set the matter for hearing not later than forty-eight (48)
 22 hours after the prosecuting attorney files a petition under this
 23 subsection. The alleged victim of the offense, the parent, guardian, or
 24 custodian of an alleged victim who is less than eighteen (18) years of
 25 age, and the parent, guardian, or custodian of an alleged victim who is
 26 an endangered adult (as defined in IC 12-10-3-2) are entitled to receive
 27 notice of the hearing and are entitled to attend the hearing. The
 28 defendant and the defendant's counsel are entitled to receive notice of
 29 the hearing and are entitled to attend the hearing. If, following the
 30 hearing, the court finds probable cause to believe that the defendant has
 31 committed an offense and that a bodily fluid was transmitted from the
 32 defendant to the alleged victim in connection with the commission of
 33 the offense, the court may order the defendant to submit to a screening
 34 test for one (1) or more dangerous diseases. If the defendant is charged
 35 with battery ~~(IC 35-42-2-1(b)(2))~~, **involving placing bodily fluid or**
 36 **waste on another person (IC 35-42-2-1)**, the court may limit testing
 37 under this subsection to a test only for human immunodeficiency virus
 38 (HIV). However, the court may order additional testing for human
 39 immunodeficiency virus (HIV) as may be medically appropriate. The
 40 court shall take actions to ensure the confidentiality of evidence
 41 introduced at the hearing.

42 (e) The testimonial privileges applying to communication between



1 a husband and wife and between a health care provider and the health
 2 care provider's patient are not sufficient grounds for not testifying or
 3 providing other information at a hearing conducted in accordance with
 4 this section.

5 (f) A health care provider (as defined in IC 16-18-2-163) who
 6 discloses information that must be disclosed to comply with this
 7 section is immune from civil and criminal liability under Indiana
 8 statutes that protect patient privacy and confidentiality.

9 (g) The results of a screening test conducted under this section shall
 10 be kept confidential if the defendant ordered to submit to the screening
 11 test under this section has not been convicted of the potentially disease
 12 transmitting offense or offense involving the transmission of a bodily
 13 fluid with which the defendant is charged. The results may not be made
 14 available to any person or public or private agency other than the
 15 following:

- 16 (1) The defendant and the defendant's counsel.
- 17 (2) The prosecuting attorney.
- 18 (3) The department of correction or the penal facility, juvenile
 19 detention facility, or secure private facility where the defendant
 20 is housed.
- 21 (4) The alleged victim or the parent, guardian, or custodian of an
 22 alleged victim who is less than eighteen (18) years of age, or the
 23 parent, guardian, or custodian of an alleged victim who is an
 24 endangered adult (as defined in IC 12-10-3-2), and the alleged
 25 victim's counsel.

26 The results of a screening test conducted under this section may not be
 27 admitted against a defendant in a criminal proceeding or against a child
 28 in a juvenile delinquency proceeding.

29 (h) As soon as practicable after a screening test ordered under this
 30 section has been conducted, the alleged victim or the parent, guardian,
 31 or custodian of an alleged victim who is less than eighteen (18) years
 32 of age, or the parent, guardian, or custodian of an alleged victim who
 33 is an endangered adult (as defined in IC 12-10-3-2), and the victim's
 34 counsel shall be notified of the results of the test.

35 (i) An alleged victim may disclose the results of a screening test to
 36 which a defendant is ordered to submit under this section to an
 37 individual or organization to protect the health and safety of or to seek
 38 compensation for:

- 39 (1) the alleged victim;
- 40 (2) the alleged victim's sexual partner; or
- 41 (3) the alleged victim's family.

42 (j) The court shall order a petition filed and any order entered under



1 this section sealed.

2 (k) A person that knowingly or intentionally:

3 (1) receives notification or disclosure of the results of a screening
4 test under this section; and

5 (2) discloses the results of the screening test in violation of this
6 section;

7 commits a Class B misdemeanor.

8 SECTION 3. IC 34-31-12 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]:

11 **Chapter 12. Limited Liability for Certified Athletic Officials**

12 **Sec. 1. "Certified athletic official" has the meaning set forth in**
13 **IC 35-42-2-1(a).**

14 **Sec. 2. To qualify for limited liability under this chapter, a**
15 **certified athletic official must do the following:**

16 (1) **Inspect the playing surface and areas immediately**
17 **adjacent to the playing surface for hazards before the**
18 **beginning of an athletic contest.**

19 (2) **Determine if weather conditions are appropriate for**
20 **beginning or continuing the athletic contest.**

21 (3) **Inspect game equipment before and during the athletic**
22 **contest.**

23 (4) **Inspect players' equipment for safety and compliance with**
24 **applicable rules before the beginning of the athletic contest.**

25 (5) **Control the athletic contest by properly enforcing**
26 **applicable playing rules.**

27 **Sec. 3. A certified athletic official who officiates an amateur**
28 **athletic contest at any level in Indiana is not liable to a person or**
29 **entity for damages or injury to a person or entity claimed to have**
30 **arisen by an act or omission related to officiating duties on the**
31 **premises of the athletic facility at which the athletic contest is being**
32 **played.**

33 **Sec. 4. This chapter does not grant immunity from civil liability**
34 **to a certified athletic official that causes damage or injury to a**
35 **person or entity by engaging in intentional, willful, wanton, or**
36 **reckless behavior.**

37 SECTION 4. IC 35-31.5-2-35.7 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE UPON PASSAGE]: **Sec. 35.7. "Certified athletic**
40 **official", for purposes of IC 35-42-2-1, has the meaning set forth in**
41 **IC 35-42-2-1.**

42 SECTION 5. IC 35-42-2-1, AS AMENDED BY P.L.147-2014,



SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) As used in this section, "certified athletic official" means a person serving as:**

- (1) a referee;**
- (2) an umpire; or**
- (3) an official;**

at an athletic event, if the person has been certified as a referee, an umpire, or an official by a local, state, regional, or national certification program.

~~(a)~~ **(b)** As used in this section, "public safety official" means:

- (1) a law enforcement officer, including an alcoholic beverage enforcement officer;
- (2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);
- (3) an employee of the department of correction;
- (4) a probation officer;
- (5) a parole officer;
- (6) a community corrections worker;
- (7) a home detention officer;
- (8) a department of child services employee;
- (9) a firefighter;
- (10) an emergency medical services provider; or
- (11) a judicial officer.

~~(b)~~ **(c)** Except as provided in subsections ~~(c)~~ **(d)** through ~~(j)~~ **(k)**, a person who knowingly or intentionally:

- (1) touches another person in a rude, insolent, or angry manner; or
- (2) in a rude, insolent, or angry manner places any bodily fluid or waste on another person;

commits battery, a Class B misdemeanor.

~~(c)~~ **(d)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~ **(c)(2)** is a Class A misdemeanor if:

- (1) it results in bodily injury to any other person; or**
- (2) the victim of the offense is a certified athletic official.**

~~(d)~~ **(e)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~ **(c)(2)** is a Level 6 felony if one (1) or more of the following apply:

- (1) The offense results in moderate bodily injury to any other person.
- (2) The offense is committed against a public safety official while the official is engaged in the official's official duty.
- (3) The offense is committed against a person less than fourteen
- (14) years of age and is committed by a person at least eighteen



(18) years of age.

(4) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(5) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(6) The offense is committed against a family or household member (as defined in IC 35-31.5-2-128) if the person who committed the offense:

(A) is at least eighteen (18) years of age; and

(B) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

~~(e)~~ **(f)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level 6 felony if the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus.

~~(f)~~ **(g)** The offense described in subsection ~~(b)(1)~~ **(c)(1)** or ~~(b)(2)~~ **(c)(2)** is a Level 5 felony if one (1) or more of the following apply:

(1) The offense results in serious bodily injury to another person.

(2) The offense is committed with a deadly weapon.

(3) The offense results in bodily injury to a pregnant woman if the person knew of the pregnancy.

(4) The person has a previous conviction for battery against the same victim.

(5) The offense results in bodily injury to one (1) or more of the following:

(A) A public safety official while the official is engaged in the official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.

(D) An endangered adult (as defined in IC 12-10-3-2).

~~(g)~~ **(h)** The offense described in subsection ~~(b)(2)~~ **(c)(2)** is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with



hepatitis, tuberculosis, or human immunodeficiency virus; and
 (2) the person placed the bodily fluid or waste on a public safety
 official.

~~(h)~~ (i) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
 (c)(2) is a Level 4 felony if it results in serious bodily injury to an
 endangered adult (as defined in IC 12-10-3-2).

~~(i)~~ (j) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
 (c)(2) is a Level 3 felony if it results in serious bodily injury to a person
 less than fourteen (14) years of age if the offense is committed by a
 person at least eighteen (18) years of age.

~~(j)~~ (k) The offense described in subsection ~~(b)(1)~~ (c)(1) or ~~(b)(2)~~
 (c)(2) is a Level 2 felony if it results in the death of one (1) or more of
 the following:

- (1) A person less than fourteen (14) years of age if the offense is
 committed by a person at least eighteen (18) years of age.
- (2) An endangered adult (as defined in IC 12-10-3-2).

SECTION 6. **An emergency is declared for this act.**

